

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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TYRONE NOEL NUNN,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants.

Case No. 2:24-cv-1245-RFB-DJA

ORDER

Pro se Plaintiff Tyrone Nunn brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations he claims he suffered while incarcerated. ECF No. 5. On April 14, 2025, the Court dismissed his Complaint without prejudice for failure to state a claim and ordered Nunn to file an amended complaint by June 13, 2025. ECF No. 4. The Court warned Nunn that the action could be dismissed if he failed to file an amended complaint by that deadline. *Id.* at 5. That deadline has passed and Nunn did not file an amended complaint, move for an extension, or otherwise respond.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket;

1 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
2 their merits; and (5) the availability of less drastic alternatives. See In re Phenylpropanolamine
3 Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone, 833 F.2d at 130).

4 The first two factors, the public's interest in expeditiously resolving this litigation and the
5 Court's interest in managing its docket, weigh in favor of dismissal. The third factor, risk of
6 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises
7 from the occurrence of unreasonable delay in filing a pleading ordered by the court or prosecuting
8 an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the
9 public policy favoring disposition of cases on their merits—is greatly outweighed by the factors
10 favoring dismissal.

11 The fifth factor requires the Court to consider whether less drastic alternatives can be used
12 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish
13 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
14 alternatives *before* the party has disobeyed a court order does not satisfy this factor); accord
15 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not exhaust every
16 sanction short of dismissal before finally dismissing a case, but must explore possible and
17 meaningful alternatives.” Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986).

18 Because this action cannot realistically proceed until and unless Nunn files an amended
19 complaint, the only alternative is to enter a second order setting another deadline. But the reality
20 of repeating an ignored order is that it often only delays the inevitable and squanders the Court's
21 finite resources. The circumstances here do not indicate that this case will be an exception: there
22 is no hint that Nunn needs additional time or evidence that he did not receive the Court's screening
23 order. Setting another deadline is not a meaningful alternative given these circumstances. So the
24 fifth factor favors dismissal. Having thoroughly considered these dismissal factors, the Court finds
25 that they weigh in favor of dismissal.

26 Therefore, **IT IS HEREBY ORDERED** that this action is **DISMISSED without**
27 **prejudice** due to Plaintiff Tyrone Nunn's failure to file an amended complaint in compliance with
28 this Court's April 14, 2025 Order, and for failure to state a claim.

1 **IT IS FURTHER ORDERED** that Nunn's application to proceed *in forma pauperis* (ECF
2 No. 1) is **GRANTED**. This status doesn't relieve Nunn of his obligation to pay the full \$350 filing
3 fee under the statute; it just means that he can do it in installments. And the full \$350 filing fee
4 remains due and owing even though this case is being dismissed.

5 **IT IS FURTHER ORDERED** that the Nevada Department of Corrections must pay to
6 the Clerk of the United States District Court, District of Nevada, 20% of the preceding month's
7 deposits to the account of **Tyrone Nunn, #1252474** (in months that the account exceeds \$10) until
8 the full \$350 filing fee has been paid for this action.

9 The Clerk of Court is **DIRECTED** to send a copy of this order to the Finance Division of
10 the Clerk's Office and the attention of **Chief of Inmate Services for the Nevada Department of**
11 **Corrections** at formapauperis@doc.nv.gov, enter judgment accordingly, and close this case. No
12 other documents may be filed in this now-closed case. If Nunn wishes to pursue his claims, he
13 must file a complaint in a new case.

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15 **DATED:** July 15, 2025.

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19 **RICHARD F. BOULWARE, II**
20 **UNITED STATES DISTRICT JUDGE**
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